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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/585,487

05/15/2009

Lars Petersen

606-134-PCT-PA

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EXAMINER

CANFIELD, ROBERT

ART UNIT

PAPER NUMBER

3635

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/585,487	<b>Applicant(s)</b> PETERSEN, LARS	
	<b>Examiner</b> ROBERT CANFIELD	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/15/09</u> .  | 6) <input type="checkbox"/> Other: _____                          |

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1. Applicant's election with traverse of the species of Figures 1 and 3 in the reply filed on 04/06/11 is acknowledged. The traversal been found persuasive. Claims 1-17 are treated on the merits below.

2. The information disclosure statement (IDS) submitted on 05/15/09 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the additionally pultruded elements adhered to the short sides of said rectangular glass panel [claim 8] must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, “said hardened glass” lacks antecedent basis.

In claims 10-14, “said distance elements” lack antecedent basis. Note claim 10 depends from claim 8 and the distance elements are not introduced until claim 9.

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In claim 12, "the inner space" and "the glass panels" lack antecedent basis. Note claim 10 depends from claim 8 and the further glass panel is not introduced until claim 9.

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language.

This claim is an omnibus type claim.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4, 6-12, 14 as best understood, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by FR 2,708,030 to Marsol.

Marsol provides a building element comprised of spaced glass panels 1/2 having pultruded elements 6 around the peripheral edge thereof. The pultruded elements 6 including glass fibers and having a coefficient of expansion close to that of the glass panels. (see fourth paragraph of English machine translation). The pultruded elements are bonded to the glass with a structural glue (first paragraph page 2 of English translation) which may be an epoxy structural adhesive (paragraph 9 page 3 of English translation). Vapor absorbing substance or desiccant is provided in metallic element 3. Metallica element 3 is considered to meet the limitation of a gas tight foil [cl. 12].

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9. Claims 1-4, 6-11, 14 as best understood, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 91/08366 to Davies.

Davies provides a building element comprised of spaced glass panels 10/11 having pultruded elements 12 around the peripheral edge thereof. The pultruded elements 12 including glass fibers and having a coefficient of expansion substantially equal to that of the glass panels. (see bottom page 5). The pultruded elements are bonded to the glass with a urethane structural sealant 28/29. Vapor absorbing substance or desiccant 25 is provided in integral distance element 21.

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over each of FR 2,708,030 to Marsol and Davies WO 91/08366 in view of EP 0 113 209 To Davies.

Marsol and Davies WO 91/08366 each provide all of the elements of the claim as noted above except for specifying the content of the fibers being more than 40%

Davies '209 teaches at pages 21 and 22 that at the time of the invention it was known that the percentage of glass fibers by weight can be varied to specifically tailor to a specific glass and obtain the required coefficient of thermal

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expansion and more specifically provides an example employing 80% glass fibers by weight

It would have been obvious at the time of the invention to one having ordinary skill in the art that the pultruded elements of Marsol and Davies '366 could have included a content of fibers of more than 40% by weight in view of the teachings of Davies '209 in order to obtain a required coefficient of thermal expansion.

12. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2,708,030 to Marsol in view of U.S. Patent 5,079,054 to Davies.

Marsol provides each of the elements of the claims as noted above except that a foil vapor barrier is provided integral to the protruded elements.

Davies teaches that at the time of the invention it was known to provide a foil vapor barrier 40 in an integral pultrusion process with the spacer or distancing element of a multi-pane building element.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the pultruded element 6 of Marsol could have integrally been provided with a foil vapor barrier as taught by Davies at 40 so as to provide an improved vapor/moisture transmission.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Note particularly U.S. Patents 4,984,402 and 5,280,686 to Davies.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT CANFIELD whose telephone number is (571)272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert J Canfield  
Primary Examiner  
Art Unit 3635

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